

Title 9

PEACE, SAFETY AND MORALS<sup>1</sup>

Chapters:

- 9.04 General Offenses
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<sup>1</sup> The general authority to enact penal ordinances and ordinances in furtherance of the public peace, safety and morals emanates from § 62.11(5), Wis. Stats. See also § 62.09(7)(b), Wis. Stats. For state criminal provisions, see § 939-947, Wis. Stats.

Chapter 9.04

GENERAL OFFENSES

Sections:

- 9.04.010 State statutes adopted.
- 9.04.022 Use of cigarette and tobacco products prohibited.
- 9.04.025 Consumption or possession of intoxicants on streets.
- 9.04.026 Prohibition against public intoxication.
- 9.04.028 Social host.
- 9.04.030 Loud and unnecessary noise prohibited.
- 9.04.032 Unnecessary blowing of railroad whistles and horns—Penalty.
- 9.04.034 Penalties for misuse of E9-1-1.
- 9.04.035 Unauthorized persons on school property.
- 9.04.037 Possession of marijuana—Prohibited.
- 9.04.038 Possession of marijuana—Penalty.
- 9.04.039 Synthetic cannabinoid prohibited.
- 9.04.040 Littering prohibited.
- 9.04.050 Loitering on posted private property.
- 9.04.054 Curfew.
- 9.04.055 Truancy.
- 9.04.060 Dumping on private property prohibited.
- 9.04.080 Deposits in sewers prohibited.
- 9.04.120 Obscene literature, pictures, etc.
- 9.04.135 Prostitution.
- 9.04.140 Purpose.

9.04.010 State statutes adopted. The following state statutes are adopted by reference and incorporated herein, except for the penalty provision therein which shall be governed by section 1.01.110:

- 939.05 [Parties to crime.]
- 939.31 [Conspiracy.]
- 939.32(1) & (2) [Attempt.]
- 939.45(1), (2), (3), (4), (5), (6) [Privilege.]
- 939.47 [Necessity.]
- 939.48 [Self-defense and defense of others.]
- 939.49(1), (2), (3) [Defense of property and protection against retail theft.]
- 939.65 [Prosecution under more than one section permitted.]
- 939.66(1), (2), (3), (4), (5) [Conviction of included crime permitted.]
- 940.19 [Battery; substantial battery; aggravated battery.]
- 941.10(1) & (2) [Negligent handling of burning material.]
- 941.13(1), (2), (3), (4) [False alarms.]
- 941.20(1)(a), (b), (c), (d), (2)(a), (3) [Endangering safety by use of dangerous weapon.]
- 943.01(1) [Damage to property.]

- 943.01(2)(a), (b), (c) [Damage to property.]
- 943.01(4) [Damage to property.]
- 943.13 [Trespass to land.]
- 943.20(1)(a), (b), (c), (d), (e), (2)(a), (b), (c), (d) [Theft.]
- 943.21(1) & (2) [Fraud on hotel or restaurant keeper, recreational attraction, taxicab, operator, or gas station.]
- 943.22 [Use of cheating tokens.]
- 943.24(1), (2) & (3). [Issuance of worthless check.]
- 943.45(1), (2), (3) & (4). [Theft of telecommunications service.]
- 943.50(1)(ar), (as) & (at), (1m)(intro), (1m)(a), (1m)(b), (1m)(c), (1m)(d), (1m)(e), (1m)(f), (1m)(g), (1m)(h), (3), (3m) & (5). [Retail theft, theft of services.]
- 944.20 [Lewd and lascivious behavior.]
- 944.21 [Obscene material or performance.]
- 946.40(1) & (2) [Refusing to aid officer.]
- 946.41(1), (2) & (3). [Resisting or obstructing officer.]
- 946.69(1) & (2). [Falsely assuming to act as a public officer or employee or a utility employee.]
- 947.01 [Disorderly conduct.]
- 947.012 [Unlawful use of telephone.]
- 947.0125 [Unlawful use of computerized communications system]
- 947.013 [Harassment.]
- 947.02 [Vagrancy.]
- 948.45 [Contributing to truancy.]
- 951.095 [Harassment of police and fire animals.]
- 961.573(1) [Possession of drug paraphernalia.]

(Ord. 61-5694 §5(part), 2016; Ord. 61-5678 §1, 2015; Ord. 61-5674 §1, 2015; Ord. 61-5637 §1, 2014; Ord. 61-4404 §1, 2012; Ord. 61-5007 §1, 1998; Ord. 61-4990 §1, 1997; Ord. 61-4773 §1, 1992; Ord. 61-4732 §1, 1991; Ord. 61-4669 §1, 1989; Ord. 61-4296 §1, 1975; Ord. 61-4210 §3, 1972.)

9.04.022 Use of cigarette, tobacco products or other smoking or electronic delivery devices prohibited. (a) Definitions. For the purpose of this section the following words shall have the following meanings:

“Cigarette” means any roll of tobacco wrapped in paper or any substance other than tobacco.

“Electronic delivery device” shall have the meaning set forth in section 2.90.010(c) of this code.

“Law enforcement officer” means any person employed by the state or any political subdivision of the state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he is employed to enforce.

“Smoke” or “smoking” shall have the meaning set forth in section 2.90.010(d) of this code.

“Tobacco products” means cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready-rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but “tobacco products” does not include cigarettes, as defined under Section 139.30(1) of the Wisconsin Statutes.

(b) Except as provided in subsection (c) of this section, no child may do any of the following:

- (1) Buy or attempt to buy any cigarette or tobacco product or other smoking or electronic delivery device;
- (2) Falsely represent his or her age for the purpose of receiving any cigarette or tobacco product or other smoking or electronic delivery device;
- (3) Possess any cigarette or tobacco product or other smoking or electronic delivery device.

(c) A child may purchase or possess cigarettes or tobacco products or other smoking or electronic delivery device for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer licensed under Section 134.65(1) of the Wisconsin Statutes.

(d) A law enforcement officer shall seize any cigarette or tobacco product or other smoking or electronic delivery device involved in any violation of subsection (b) of this section committed in his or her presence.

(e) Smoking ban adopted. The City adopts by reference, the provisions of Wis. Stats. §101.123, smoking prohibited, pertaining to the statewide smoking ban. For purposes of enforcing the smoking ban found in Wis. Stats. §101.123 within this City, the definition found in subsection (a) of this section for “smoke” or “smoking” shall apply instead of the definition for “smoking” found in said state statutes and the definition found in subsection (a) of this section for “electronic delivery device” shall also apply.

(f) Penalty shall be not more than fifty dollars. (Ord. 61-5694 §6-7 (part), 2016; Ord. 61-4766 §1, 1992.)

9.04.025 Consumption or possession of intoxicants on streets. (a) No person shall consume any intoxicating liquor or fermented malt beverage while in or upon any public street, public parking lot, alley, sidewalk or other public right-of-way, or in or upon The 400 Block. Intoxicating liquor or fermented malt beverages are permitted in or upon The 400 Block and the sidewalks adjoining The 400 Block between the hours of 4:00 p.m. and 11:00 p.m. and during a Class I, II, or III Special Event upon request of the event organizer and as approved under the City’s Special Events Policy and Procedures for a period beginning two (2) hours before the time for the Class I, II, or III Special

Event and ending one (1) hour after the event if the event closes prior to 4:00 p.m., or such hours beginning before and ending after the event as may otherwise be approved by the public health and safety committee.

(b) No person shall be in possession of any open container containing intoxicating liquor or fermented malt beverages on any public street, public parking lot, alley, sidewalk or other public right-of-way or in or upon The 400 Block. Open containers containing intoxicating liquor or fermented malt beverages are permitted in or upon The 400 Block and the sidewalks adjoining The 400 Block, between the hours of 4:00 p.m. and 11:00 p.m. and during a Class I, II, or III Special Event upon request of the event organizer and as approved under the City's Special Events Policy and Procedures for a period beginning two (2) hours before the time for the Class I, II, or III Special Event and ending one(1) hour after the event if the event closes prior to 4:00 p.m., or such hours beginning before and ending after the even as may otherwise be approved by the public health and safety committee.

(c) Exemptions from the provisions contained in subsections (a) and (b) of this section may be granted for a special event, upon at least 60 days' advance written request, by the public health and safety committee and common council. Block parties issued an approved block party permit from the Engineering Department are exempt from the provisions of subsection (a) and (b) for the duration of the permit. (Ord. 61-5779 §1, 2018; Ord. 61-5771 §1(part), 2018; Ord. 61-5749 §1, 2017; Ord. 61-5714 §1, 2016; Ord. 61-5710 §1, 2016; Ord. 61-5480 §1, 2011, File No. 80-0828; Ord. 61-5441 §1, 2010, File No. 80-0828; Ord. 61-4468 §1, 1980; Ord. 61-4466 §1, 1980.)

9.04.026 Prohibition against public intoxication. (a) Intent and Purpose. It is the policy of the City of Wausau to comply with Chapter 51, Wis. Stats., as well as to provide for the safety, welfare and health of the public as is permitted under section 62.11(5), Wis. Stats., while prohibiting certain harmful conduct of intoxicated persons. Being publicly intoxicated makes a person vulnerable to injury, robbery, assault, and a number of other difficulties. This section addresses the behavior of the individual rather than his or her blood alcohol content level, thus encouraging responsible behavior while consuming alcohol, providing a benefit to both the individual and the public. Nothing in this ordinance is intended to contradict those elements proscribed under Chapter 51, Wis. Stats.

(b) Definitions. The following terms shall be defined as follows in this section.

(1) Controlled substance. A substance as defined in section 961.01(4), Wis. Stats.

(2) Controlled substance analog. A substance as defined in section 961.01(4m), Wis. Stats.

(3) Incapacitated person. A person, who as a result of the use of alcohol, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog is unconscious or whose judgment is so impaired that he or she is incapable of making a rational decision, as evidenced objectively by indicators such as extreme physical

debilitation, physical harm or threats of harm to himself or herself or to any other person, or to property.

(4) Intoxicated person. A person whose mental or physical functioning is substantially impaired as a result of the use of alcohol, a controlled substance, a controlled substance analog or any combination of an intoxicant, a controlled substance and a controlled substance analog.

(5) Public place. A place to which the public has access, and includes, but is not limited to, places owned or controlled by the city, county or state, any public street, highway, sidewalk, parking lot, alley, parks, schools, places of worship and places of business. Places of business include premises open to the public where alcohol is consumed including a licensed alcohol establishment.

(6) Public nuisance. Conduct by an individual that is a disturbance of the peace, including, but not limited to, endangering himself or herself or other persons or property, engaging in behavior that is disruptive, harassing or threatening in nature to other persons, acting in an unruly or combative manner, creating loud noises to the disturbance of other persons, refusing to follow the instructions of a law enforcement or community service officer, refusing to follow the instructions to leave a place of business by the owner, employee or other person in charge thereof, or otherwise disturbing the peace in any public place.

(c) Intoxication in public places prohibited. No person shall, in a public place, conduct himself or herself in such a manner as to be an intoxicated or incapacitated person and to create a public nuisance.

(d) Penalties.

(1) First Offense. Any person violating the provision of this section is subject to a forfeiture of one hundred and fifty dollars.

(2) Subsequent Offenses. Any person violating the provisions of this section is subject to a forfeiture of three hundred dollars. (Ord. 61-5589 §1 2013, File No. 13-0911)

9.04.028 Social host. (a) The common council intends to discourage underage possession and consumption of alcohol, even if done within the confines of a private residence, and intends to hold persons civilly responsible who host events or gatherings where persons under 21 years of age possess or consume alcohol regardless of whether the person hosting the event or gathering supplied the alcohol. The common council finds:

(1) Events and gatherings held on private or public property where alcohol is possessed or consumed by persons under the age of twenty-one are harmful to those persons and constitute a potential threat to public health requiring prevention or abatement.

(2) Prohibiting underage consumption acts to protect underage persons, as well as the general public, from injuries related to alcohol consumption, such as alcohol overdose or alcohol related traffic collisions.

(3) Alcohol is an addictive drug which, if used irresponsibly, could have drastic effects on those who use it as well as those who are affected by the actions of an irresponsible user.

(4) Often, events or gatherings involving underage possession and consumption occur outside the presence of parents. However, there are times when the parent(s) is/are present and condone the activity, and in some circumstances, provide the alcohol.

(5) A deterrent effect will be created by holding a person responsible for hosting an event or gathering where underage possession or consumption occurs.

(b) Prohibited acts. No adult may knowingly permit or fail to take action to prevent the illegal consumption of alcohol beverages by an underage person on property, including any premises, owned and occupied by the adult or occupied by the adult and under the adult's control. This provision applies at a lodging establishment, as defined in Wis. Stat. §106.52(1)(d), only if the adult has furnished payment or security for lodging. This subdivision does not apply to alcohol beverages used exclusively as part of a religious service.

(1) A person is responsible for violating this section if the person intentionally aids, advises, hires, counsels or conspires with or otherwise procures another to commit the prohibited act.

(2) A person who hosts an event or gathering does not have to be present at the event or gathering to be responsible.

(c) Exceptions.

(1) This chapter does not apply to conduct solely between an underage person and his or her parents while the parent is present and in control of the underage person.

(2) This chapter does not apply to situations where underage persons are lawfully in possession of alcohol or alcoholic beverages during the course and scope of employment.

(d) Penalties. For purposes of determining previous violations under this subsection, the 30 month period shall be measured from the dates of violations that resulted in an imposition of a forfeiture. For purposes of determining whether or not a previous violation has occurred, if more than one violation occurs at the same time all those violations shall be counted as one violation.

(1) A person who commits a violation may be required to forfeit not more than

\$500, plus costs, if the person has committed not more than one previous violation within 30 months of the violation.

- (2) A person who commits 2 or more previous violations within 30 months of the violation may be required to forfeit not more than \$1,000, plus costs.
- (3) Any person holding a license or permit issued under Chapter 125, Wisconsin Statutes shall have such license or permit suspended as provided in Wis. Stat §125.07(1)(b)3. (Ord. 61-5761 §1, 2018, File No. 11-1008; Ord. 61-5512 §1, 2012, File No. 11-1008; Ord. 61-5493 §1, 2011, File No. 11-1008)

9.04.030 Loud and unnecessary noise prohibited. (a) No person shall make or assist in making any noise tending to unreasonably disturb the peace and quiet of persons in the vicinity thereof unless the making and continuing of the same cannot be prevented and is necessary for the protection or preservation of property or of the health, safety, life or limb of some person. No person shall operate a loudspeaker from any vehicle within the city except upon written permit issued by the mayor upon such terms and conditions as will ensure that the public peace and said order will not be disturbed.

(b) No person shall operate a railroad locomotive within the city while blowing the steam whistle thereof nor run a locomotive within the city without a continuous ringing of the bell of the locomotive.

(c) Exhausts. No person shall discharge into the open air, the exhaust of any steam engine, stationary internal combustion engine or motor boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(d) Compression brakes. No person, except for city employees operating city-owned vehicles, shall use motor vehicle brakes within the City of Wausau which are in any way activated or operated by the compression of an engine of any such motor vehicle or any unit or part thereof. (Ord. 61-5118 §1, 2001, File No. 01-0612; Ord. 61-4860 §1, 1994; prior code §11.02 (3).)

9.04.032 Unnecessary blowing of railroad whistles and horns—Penalty. No railroad company or any of its agents, servants or employees shall blow or cause to be blown, between the hours of seven p.m. and seven a.m., any whistle or horn within the limits of the city, except in those cases prescribed and designated by the laws of the state, but nothing in this section shall be construed as forbidding or prohibiting the blowing of any whistle or horn as a signal or warning in case of peril, fire, collision or other imminent danger to life and/or property. Any person violating any of the provisions of this section shall be punished by a forfeiture of not more than two hundred dollars. (Ord. 61-4693 §1, 1989.)

9.04.034 Penalties for misuse of E9-1-1. (a) “E9-1-1 emergency telephone system” shall be defined as in Section 146.70(1), Wisconsin Statutes.

(b) Regulated Use.



- (1) No person shall use the E9-1-1 emergency telephone system for regular business or nonemergency calls.
- (2) No person shall dial, or cause or direct another to dial on his or her behalf, the number 911 to report an emergency knowing that the fact or situation reported does not exist.
- (3) No parent, guardian or other adult person having the care or custody of a child under the age of 18 years shall suffer or permit by inefficient control such child to violate subsection (2). (Ord. 61-5690 §1, 2015, File No. 93-0430; Ord. 61-4796 §1, 1993.)

9.04.035 Unauthorized persons on school property. No person, not in official attendance at or on official school business with the Wausau public schools or the Northcentral Technical College, shall enter into any Wausau public school building in the city or the Northcentral Technical College shall congregate, loiter, idle, stand, remain or play in any Wausau public school building in the city or on any property adjacent thereto and under the control of the schools or the Northcentral Technical College, between the hours of seven a.m. and four p.m. on official Wausau public school days. This section shall not apply to persons who have obtained the requisite permission from Wausau public school officials in accordance with the Wausau public school's rules and regulations. (Ord. 61-4835 §1, 1994; Ord. 61-4496 §1, 1982.)

9.04.037 Possession of marijuana—Prohibited. It is unlawful for any person to possess any material, compound, mixture or preparation which contains any quantity of marijuana, or its salts, isomers or salts of isomers, unless the substance was obtained directly from, or pursuant to a valid prescription or order of, a practitioner, within the meaning of Section 161.01(19), Wisconsin Statutes, while acting in the course of his professional practice, or except as otherwise authorized by Chapter 161, Wisconsin Statutes. (Ord. 61-4547 §1, 1984.)

9.04.038 Possession of marijuana—Penalty. The penalty for violation of section 9.04.037 shall be a forfeiture of not less than fifty dollars nor more than five hundred dollars. (Ord. 61-4547 §2, 1984.)

9.04.039 Synthetic cannabinoid prohibited. (a) Possession, use and sale are illegal. It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give or barter any material, compound, mixture, or preparation, chemical derivative of marijuana including but not limited to synthetic cannabinoids, JWH-018, JWH-073, JWH-200, JWH-081, JWH-250, HU-210; cannabicyclohexanol, CP 49, 497, TFMPP; or any similar structural analogs commonly found in, referred to, or marketed or sold under the names “K2”, “Spice”, “Genie”, “Yucatan Fire”, “fake” or “new or legal marijuana”, or by any other name, label or description. (Ord. 61-5464 §1, 2011, File No. 10-1106)

(b) Medical or dental use allowed. Acts otherwise prohibited under subsection (a) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

(c) Penalties. Any person violating this ordinance shall be subject to the following forfeitures:

(1) Possession/use. A forfeiture of three hundred dollars to five hundred dollars, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than thirty days.

(2) Sale. A forfeiture of two thousand dollars to three thousand dollars, exclusive of costs, and upon failure to pay the same shall be confined in the county jail for not more than thirty days.

(Ord. 61-5451 §1, 2010, File No. 10-1106.)

9.04.040 Littering prohibited. No person shall throw any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the city or upon any private property not owned by him or upon the surface of any body of water within the city. (Ord. 61-4210 §2(part), 1972; prior code §11.04(2).)

9.04.050 Loitering on posted private property. It shall be unlawful for any person to congregate, loiter, wander, stroll or stand upon any private property in the city which has been posted with a notice stating "No Loitering," "Patrons Only," or other notice indicating that the said property is not a thoroughfare for the use of the general public. Such notice shall be at least eight and one-half by eleven inches in size, or of comparable area, and plainly posted, at least one to each property intended to be so posted. This section shall include loitering in parked motor vehicles. (Ord. 61-4748 §1, 1991.)

9.04.054 Curfew. (a) Children under 16 years of age. It shall be unlawful for any person under 16 years of age to be on foot, bicycle or in any type of vehicle on any public street, avenue, highway, road, alley, park, school grounds, swimming beach, cemetery, playground, public building or any other public place in the city between the hours of 12 a.m. and 6 a.m. each day unless accompanied by their parent or guardian, or person having lawful custody and control of the child, or unless there exists a reasonable necessity therefor. The fact such child, unaccompanied by parent, guardian or other person having legal custody, is found upon any such public place during the aforementioned hours shall be prima facie evidence that the child is there unlawfully.

(b) Exceptions. This section shall not apply to a child who is performing an errand as directed by his parent, guardian or person having lawful custody; who is on his own premises or in the areas immediately adjacent thereto; whose employment makes it necessary to be upon the streets, alleys or public places or in any motor vehicle during such hours; or who is returning home within one-half hour from the completion of a supervised school, church, civic function, sporting event or place of public entertainment.

(c) Warning. The first time a child, parent, guardian or person having legal custody of a minor that is detained by a law enforcement officer of the city, such child, parent, guardian or person having such legal custody, shall be advised, personally, if known, or by registered mail, as to the

provisions of this section, and further advised that any violation of this section occurring thereafter by this minor or any other minor under his care or custody shall result in a penalty being imposed as provided in subsection (d).

(d) Penalty. Any child described in subsections (a) through (b) of this section who has been warned in the manner provided in subsection (c) of this section and who thereafter violates any of the provisions of this section shall be subject to the following penalties:

- (1) A forfeiture of not more than \$10 plus costs for a second violation;
- (2) A forfeiture of not more than \$25 plus costs for a third violation;
- (3) A forfeiture of not more than \$50 plus costs for a fourth or subsequent violation.

(Ord. 61-5303 §1, 2006, File No. 03-0811; Ord. 61-5208 §1, 2003, File No. 03-0811.)

9.04.055 Truancy. Any child under the age of 18 years who is subject to school attendance and who is absent from school without an acceptable excuse under Sections 118.15 and 118.16(4) of the Wisconsin Statutes for part or all of any day on which school is held during a semester shall be deemed truant and in violation of section.

(a) Definitions. In this section:

Acceptable excuse means permission of the parent/guardian/legal custodian of a pupil, within limits of policies on truancy established by the school in which the pupil is enrolled. Except in emergencies or unforeseeable circumstances, such permission is expected to be communicated in writing from the parent/guardian/legal custodian to the school, prior to the absence. In emergencies or unforeseeable circumstances, such communication is expected to be as soon as practicable following the absence.

(b) Penalties. Any child violating this section shall be subject to one or more of the penalties provided in subsections 1 and 2 below:

- (1) An order for the child to attend school;
- (2) A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for a second or subsequent violation committed within 12 months of a previous violation, subject to § 938.37, Wis. Stats., and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester.

(Ord. 61-5358 §1, 2008, File No. 01-0416; Ord. 61-5114 §1, 2001, File No. 01-0416; Ord. 61-0511 §1, 2001, File No. 01-0416.)

9.04.060 Dumping on private property prohibited. No person shall place, dump or cast or cause to be placed, dumped or cast any rubbish, debris, garbage, ashes, boxes, offal, or any waste matter, or any cast-off material of any kind, upon the private property of another without express consent of the owner of said property, or use any private property for a dumping ground or for the disposal of waste, rubbish or other material or substance without consent of the owner of said property. (Ord. 61-4210 §2(part), 1972; prior code §11.04(3).)

9.04.080 Deposits in sewers prohibited. No person shall deposit in any sewer or drain any gas, fats, grease, flammable or explosive material or any other substance likely to obstruct such sewer or drain or cause a nuisance or create a hazard. (Ord. 61-4210 §2(part), 1972; prior code §11.04 (4).)

(Ord. 61-5672 §1, 2015, Ord. 61-4210 §2(part), 1972; Ord. 61-4164 §1, 1970.)

9.04.120 Obscene literature, pictures, etc. (a) Definitions:

- (1) Obscene. Material is obscene if:
  - (A) Its dominant theme taken as a whole appeals to a prurient interest in sex; and
  - (B) It is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matter; and
  - (C) It is utterly without redeeming social value.
- (2) Knowingly. A person acts knowingly if he has general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of the character and content of any material described herein which is reasonably susceptible of examination.

(b) It is unlawful for any person knowingly:

- (1) To sell, loan for a monetary consideration, deliver or provide, or offer or agree to sell, loan for a monetary consideration, deliver or provide, any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) To present or direct or participate in an obscene play, dance or performance or knowingly to permit the same on any premises owned or operated by him or under his control; or
- (3) To publish, exhibit, distribute, give away or otherwise make available any obscene material; or
- (4) To possess any obscene material for purposes of sale or other commercial dissemination; or

- (5) To sell, advertise or otherwise commercially disseminate material, whether or not obscene, by representing or suggesting that it is obscene.

(Ord. 61-4210 §2(part), 1972; Ord. 61-4165 §1, 1970.)

9.04.135 Prostitution. (a) Adoption of state law regarding prostitution. The provisions of Wisconsin Statutes section 944.30 prohibiting prostitution, exclusive of the penalty, are hereby adopted by reference and made an offense punishable as a violation of this code.

(b) Offering or engaging in sexual contact for compensation. It shall be unlawful and prohibited for any person to pay a fee or receive a fee, directly or indirectly, or to offer or ask for anything of value, for touching or offering to touch the sexual parts of another either directly or by employing a mechanical or electrically operated device for the purpose of arousing or gratifying the sexual desire of either party.

(c) Penalties. Any person found to have violated any provisions of this section shall be subject to a forfeiture of not less than two thousand dollars (\$2,000) and not more than five thousand dollars (\$5,000). (Ord. 61-5621 §1, 2014, File No. 14-0510)

9.04.140 Purpose. Various groups have for years urged the city to adopt and enforce an ordinance controlling pornographic material within the city limits. The success of such an ordinance depends on strict adherence to the constitutional limits on restricting free speech and expression. Legal challenges to such ordinances are regular and often expensive. A city ordinance is of limited geographical reach. Minors who are city residents find easy access to neighboring jurisdictions. If material that may not be sold in the city is readily available in the area, there is little reason to engage in expensive and time consuming legal proceedings. To meet this problem, Marathon County has enacted a pornography ordinance, Number 95. It is the intention of the common council that by adoption of the county ordinance, effect be given it within the city of Wausau, including Section VI, which states that upon adoption of the county ordinance, by a municipality located within the county, the district attorney will enforce the terms and provisions of the ordinance as a county ordinance, having full force and effect within said municipality, including the city of Wausau.

“I. It shall be unlawful and illegal within the county of Marathon, Wisconsin, for any person or corporation to knowingly engage in either the public or private (a) business of selling to minors;

(b) lending, giving away, showing to, or distributing to minors for a monetary consideration;

(c) advertising for sale to minors; or

(d) placing for sale in such a location so as to allow a minor to buy, handle, read, or hear or view any obscene motion picture, live show, sound recording, still picture, photograph, book, magazine,

pocket book or pamphlet the cover or content of which exploits, is devoted to, or is principally made up of descriptions or depictions of illicit sex, sexual immorality, sexual conduct, sexual excitement or sado-masochistic abuse, or which consists of pictures of a nude human being or partially nude human being, posed or presented in such a manner so as to provoke or arouse lust, passion or exploit sexual lust or perversion. A work shall be considered 'obscene' if an average person applying contemporary Marathon County standards would find that the work taken as a whole, appeals to the prurient interest in sex, or portrays sexual conduct in a patently offensive way, and if taken as a whole, does not have serious literary, artistic political, or scientific value.

"II. Any person violating paragraph I.(a)-(d) above, shall upon a finding of guilty pay a forfeiture of not less than \$200.00, nor more than \$1,500.00, plus costs per day for each day any of the aforementioned acts occur for the first offense. Forfeitures for subsequent offenses shall be not less than \$500.00, nor more than \$2,500.00, plus costs per day for each day any of the aforementioned acts occur.

"III. This ordinance shall be enforced under §66.0114 or Chapter 288 of the Wisconsin Statutes, by the Marathon County District Attorney, or his assistants, unless the municipality wherein the illegal act occurs elects to adopt its own ordinance dealing with the subject matter, and fails to adopt this ordinance.

"IV. For the purposes of this ordinance:

(A) 'Descriptions or depictions of illicit sex' or 'sexual immorality' shall mean:

- (1) human genitals in the state of sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy, fondling or otherwise erotic touching of human genitals, pubic region, buttocks or female breast.

(B) 'Nude' or 'partially nude' shall mean less than completely opaquely covered:

- (1) human genitals;
- (2) pubic region;
- (3) buttocks;

- (4) female breast below point immediately above the top of the areola; or
- (5) human male genitals in a discernibly turgid state, even if completely or opaquely covered.
- (C) 'Minor' shall mean any person under the age of eighteen (18) years at the time the illegal act occurs.
- (D) 'Sexual conduct' shall mean acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person be a female, her breast.
- (E) 'Sexual excitement' shall mean the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (F) 'Sado-masochistic abuse' shall mean flagellation or torture by or upon a person clad in undergarments, a mask, or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
- (G) All other terms, words or phrases used in this ordinance shall have the meaning as commonly understood within Marathon County, Wisconsin.

"V. It shall be the sole responsibility of each person who deals in such products or items referred to in this ordinance to personally ascertain the true age of each person to whom he or she makes such items available. To do so such person shall be expected to rely upon an official Wisconsin identification card, as distributed through the office of the Register of Deeds, of the various counties of the State of Wisconsin.

"VI. The City of Wausau hereby consents the Marathon County District Attorney may prosecute any violations hereof as a county violation.

"VII. A person acts knowingly if he has a general knowledge of, or reason to know of, a belief or ground for belief, which warrants further inspection or inquiry of the character and consent of any material described herein which is reasonably susceptible of examination.

"VIII. If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected."

(Ord. 61-4387 §1, 1978.)



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Chapter 9.05

PARENTAL RESPONSIBILITY<sup>2</sup>

Sections:

- 9.05.010 Purpose.
- 9.05.020 Definitions.
- 9.05.030 Parental responsibility for the acts of minor child.
- 9.05.040 Defenses.
- 9.05.050 Penalty.

9.05.010 Purpose. It is the purpose and intent of this chapter to insure for the sake of the child and of the community, that the parent(s) make reasonable effort (according to community standards) to positively influence and monitor over time, the behavior choices of their minor children.

It is further the purpose and intent of this chapter to assist families by allowing for parents to undertake a course of action that will enhance their knowledge of effective parenting skills or otherwise effectively address the nonconforming behaviors of their minor children. (Ord. 61-4965 §1(part), 1996.)

9.05.020 Definitions. In this chapter, unless otherwise defined:

“Child” means a person under the age of seventeen years.

“Consent” is defined as the expressed or implied agreement of the parent(s) with the acts or behavior of the child if, based on "knowledge" as defined above, the parent cannot provide evidence of specific efforts made by them, him/her, to mitigate or to sanction against the negative behavior of the child.

“Knowledge” is defined as any information the parent(s) could derive from their proper and expected role(s) in relationship to their child or information provided by other persons in authority to the child that would cause the parent(s) to be able to anticipate those acts or behaviors of the child which are the subject of the violations under section 9.05.030(a) and (b).

“Parent or legal guardian” means a biological or adoptive parent, a legal guardian or a person who has legal custody as defined by Section 767.001(2) of the Wisconsin Statutes of a minor child.

“Parent or legal guardian” does not include a person or agency who has legal custody, as defined under Section 48.02(12) of the Wisconsin Statutes no any person whose parental rights have been terminated. (Ord. 61-4965 §1(part), 1996.)

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<sup>2</sup> Prior history: Ord. 61-4919.

9.05.030 Parental responsibility for the acts of minor child. A parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary, to have failed to exercise proper parental responsibility, and the minor shall be deemed to have committed the violations along with the knowledge and consent of the parent or guardian, in violation of this chapter, upon occurrence of the events described in subsections (a) and (b) of this section:

(a) The child has been adjudicated to have been on private or public property within the city of Wausau in violation of any provisions of this code twice within a six-month period. The six-month period shall be measured from the date of violation

(b) In an action under subsection (a) of this section, an adjudication in municipal court that the child has violated an ordinance subject to its admissibility under Section 904.10 of the Wisconsin Statutes, shall estop a child's parent(s) from denying that the child committed the act. (Ord. 61-4965 §1(part), 1996.)

9.05.040 Defenses. It shall be a defense to the offense of failure to exercise parental responsibility if the parent(s) can provide specific evidence of on-going participation in or recent completion of parenting classes, family therapy, group counseling or AODA counseling which includes the parent(s) or family.

It shall be a defense to the offense of failure to exercise parental responsibility if the parent(s) reported the act(s) under section 9.05.030(a) to the appropriate authorities. (Ord. 61-4965 §1(part), 1996.)

9.05.050 Penalty. The offense described under section 9.05.030 shall be subject to a penalty of not more than one thousand dollars. (Ord. 61-4965 §1(part), 1996.)

Chapter 9.06

CONTEMPT OF COURT

Sections:

9.06.010 Power of the court to punish for contempt of court.

9.06.010 Power of the court to punish for contempt of court. (a) The municipal judge may, pursuant to Section 800.12 of the Wisconsin Statutes, impose a remedial or punitive sanction for contempt of court under this section.

(b) "Contempt of court" means intentional:

- (1) Misconduct in the presence of the court which interferes with a court proceeding or with the administration of justice, or which impairs the respect due the court;
- (2) Disobedience, resistance or obstruction of the authority, process or order of a court;
- (3) Refusal as a witness to appear, be sworn or answer a question; or
- (4) Refusal to produce a record, document or other object.

(c) "Punitive sanction" means a sanction imposed to punish a past contempt of court for the purpose of upholding the authority of the court.

(d) "Remedial sanction" means a sanction imposed for the purpose of terminating a continuing contempt of court.

(e) Summary Procedure. The municipal judge presiding in an action or proceeding may impose a punitive sanction upon a person who commits a contempt of court in the actual presence of the court. The judge shall impose the punitive sanction immediately after the contempt of court and only for the purpose of preserving order in the court and protecting the authority and dignity of the court.

(f) The municipal judge may impose a forfeiture for contempt of court in an amount not to exceed fifty dollars or, upon nonpayment of the forfeiture and penalty assessment under 165.87 of the Wisconsin Statutes, a jail sentence not to exceed seven days. (Ord. 61-4669 §4, 1989.)

Chapter 9.07

PROHIBITING THE HARBORING, AIDING, ABETTING,  
AND/OR ASSISTING OF MINOR RUNAWAYS

Sections:

9.07.010 Prohibited acts.

9.07.010 Prohibited acts. (a) Except as provided below, no person shall knowingly allow, permit, or board any minor child at his/her residence, business, or other property in his or her control, where the person knows or should have known the minor child to be a runaway from his/her parent, guardian, or legal custodian.

(b) Except as provided below, no person shall knowingly assist, aid, or abet a runaway child to escape apprehension or flee from his/her parents or authorities, including but not limited to:

- (1) Providing transportation to said runaway child; or
- (2) Providing money, clothing, or any other useful instrument to the runaway child to aid the runaway child in escape; or
- (3) Obstructing by providing false or untrue information regarding the location or plan of the runaway child; or
- (4) Refusing to provide information to law enforcement officers when questioned about the runaway child which information was known to them at the time and would assist in the apprehension of said runaway child; or
- (5) Assisting, aiding, or abetting the runaway child in any other way for the purpose of hindering law enforcement officers or the child's parents, guardian, or legal custodian from learning the whereabouts of the child.

(c) This chapter does not apply to the recipient of a placement by the juvenile court intake staff or the court providing that the law enforcement agency who originated the runaway child report is informed of said placement.

(d) This chapter does not apply to any person providing temporary shelter to a runaway for the purpose of protecting the runaway from imminent abuse provided the person does not withhold information about the whereabouts of the runaway if questioned by law enforcement authorities and reports the whereabouts of a known runaway to law enforcement officers as soon as feasible. (Ord. 61-4697 §1, 1989.)

Chapter 9.08

WEAPONS

Sections:

- 9.08.010 Discharging and carrying firearms and guns prohibited.
- 9.08.020 Throwing or shooting of arrows, stones, and other missiles prohibited.
- 9.08.030 Firearms and weapons restricted where prohibited.

Section 9.08.010 Discharging and carrying firearms and guns prohibited. (a) No person, except a sheriff, constable, police officer, or their deputies, shall fire or discharge any firearm, rifle, bow, arrow, spear, spring or air gun of any description within the city. Except as provided in subsection (b), this section shall be deemed to prohibit hunting within the city.

(b) Subsection (a) shall not apply to any of the following:

- (1) The maintenance and use of duly supervised rifle or pistol ranges, shooting galleries or archery ranges authorized by the common council.
- (2) The firing or discharging of BB guns upon private premises by persons over sixteen or under the direct personal supervision of a parent or guardian.
- (3) Persons participating in educational programs sponsored and supervised through the Wausau School District or any other private or parochial school, or a university, college, or technical college.

following (4) To persons hunting with a bow and arrow or crossbow who meet the conditions:

(A) A person hunting with a bow and arrow or crossbow shall not hunt within a distance of two hundred (200) feet from any building located on another person's land which is a permanent structure used for human occupancy and includes a manufactured home as defined in section 101.91(2) of the Wisconsin Statutes. This restriction shall not apply if the person who owns the land on which the building is located allows the hunter to hunt with a bow and arrow or cross bow within the specified distance of the building.

(B) A person hunting with a bow and arrow or crossbow shall discharge the arrow or bolt immediately toward the ground.

(C) No person shall discharge an arrow or bolt on or across any portion of city owned or leased park land. Hunting by bow and arrow on any city owned or leased property other than city owned or leased park land requires advanced written approval of and registration with the Police Department.

No person shall discharge an arrow or bolt on or across any city owned or leased non-park land without such prior written approval and registration.

(D) The person shall not discharge an arrow or bolt in such a manner that endangers the life, limb, or property of another or will traverse any part of any right-of-way, street, alley, public grounds or parks.

(E) The person possesses a current, valid permit or license issued by the Wisconsin Department of Natural Resources and complies with all applicable state laws, rules and regulations pertaining to bow hunting.

(F) Hunting does not include target practice.

(c) Unless other facts and circumstances that indicate a criminal or malicious intent on the part of the person apply, a person is not in violation of, and may not be charged with a violation of this section for loading, carrying, or going armed with a firearm, without regard to whether the firearm is loaded or is concealed or openly carried.

(d) This section does not apply and may not be enforced if the actor's conduct is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Wis. Stats. §939.45. (Ord. 61-5642 § 1, 2014, File No. 93-0835; Ord. 61-5492 §1, 2011, File No. 93-0825; Ord. 61-5386 §1, 2008, File No. 93-0835; Ord. 61-5371 § 1, 2008, File No. 93-0835; Ord. 61-4810 §1, 1993; Ord. 61-4807 §1, 1993; prior code §11.01(1).)

9.08.020 Throwing or shooting of arrows, stones and other missiles prohibited. No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any other person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the city. This subsection shall not apply to archery ranges under the supervision of the park and recreation committee, nor shall it apply to the bow hunting provisions within 9.08.010. (Ord. 61-5371 § 1, 2008, File No. 93-0835; Ord. 61-5339 §2, 2007, File No. 07-0718; Prior code §11.01(2).)

9.08.030 Firearms and weapons restricted where prohibited. (a) Definitions. The following definitions shall apply in the interpretation and the enforcement of this section:

- (1) "Firearm" means a weapon that acts by force of gunpowder.
- (2) "Law enforcement" means any person employed by the State of Wisconsin or any political subdivision of this state, for the purpose of detecting and preventing crime and enforcing laws or ordinances and who is authorized to make arrests for violations of the laws or ordinances he or she is employed to enforce.
- (3) "Weapon" means a handgun, an electronic weapon as defined at Wis. Stats. §941.295, a knife other than a switchblade under Wis. Stats. §941.24, or a billy club.

(b) In addition to the provisions of Wisconsin Statutes enumerating places where the

carrying of a weapon or a firearm is prohibited, including exceptions thereto, it shall be unlawful for any person other than a law enforcement officer or other city officer or official designated by the chief of police to enter the following City of Wausau municipal buildings, facilities or locations while carrying a weapon or a firearm:

- (1) City Hall
- (2) Fire stations
- (3) Kaiser pool house
- (4) Schulenberg pool house
- (5) Memorial pool house
- (6) Athletic Park stadium and facilities
- (7) Park shelter houses
- (8) Park storage sheds
- (9) City wells, pump houses, booster stations and all related buildings
- (10) Wastewater treatment plant, lift stations and related buildings
- (11) Water Works treatment plant and meter shop
- (12) Any buildings or facilities as designated by the Community Development Authority
- (13) Transit administrative offices
- (14) Public Works building and all related facilities
- (15) Any and all other municipal buildings owned or operated by the City of Wausau, whether now in existence or later constructed if posted pursuant to law. (Ord. 61-5502 §1, 2012, File No. 11-1009; Ord. 61-5495 §1, 2011, File No 11-1009)

(c) It shall be unlawful for any person other than a law enforcement officer to enter any building, facility, or location open to the public that is restricted by state law or posted as a no firearms or concealed weapons location while possessing, carrying, or concealing a firearm or weapon, whether with or without a state permit.

(d) Signs meeting the requirements of Wis. Stats. §943.13(2)(bm)1 shall be posted in prominent places near public entrances of all buildings, structures or locations that restrict or prohibit firearms or concealed weapons.

(e) Signs of at least 5 inches by 7 inches in size shall be posted in prominent places near public entrances to all licensed premises selling alcohol for on-premise consumption to advise patrons that:

- (1) Firearms are prohibited on such premises except with a valid concealed weapons license pursuant to Wis. Stats. §941.237(2), 175.60(1)(d) and (1)(g); and
- (2) Those with such a license cannot be served alcohol if carrying a concealed weapon pursuant to Wis. Stats. §941.237(3)(cx), 175.60(1)(d) and (1)(g); or
- (3) All firearms and concealed weapons are prohibited on premises, in which case signs shall be posted complying with Wis. Stats. §943.13.(2)(bm)1.



(f) The city clerk shall have signs meeting these requirements produced and available for licensees by November 30, 2011, and for new licensees thereafter. Licensees shall post such signs or signs substantially similar of comparable size, font and content.

(g) A violation of this section is a violation of Wis. Stats. §943.13 as adopted by WMC 9.04.010 with the penalty given at WMC 1.01.110.

(Ord. 61-54951, 2011, File No. 11-1009; Ord. 61-5491 §1, 2011, File No. 11-1009)

Chapter 9.09

SHINING ANIMALS

Sections:

- 9.09.010 Definitions.
- 9.09.020 Presumption.
- 9.09.030 Shining wild animals after ten p.m.

9.09.010 Definitions. As used in this chapter:

- (a) "Department" means the State Department of Natural Resources.
- (b) "Flashlight" means a battery operated light designed to be carried and held by hand.
- (c) "Light" means and includes flashlights, automobile lights, spotlights and other lights.
- (d) Peace officer. The meaning designated under Section 939.22(22), Wisconsin Statutes.
- (e) "Shining means the illumination or attempted illumination of a field, forest or other area by means of light as defined herein for the purpose of locating or attempting to locate wild animals. (Ord. 61-4994 §1(part), 1998.)

9.09.020 Presumption. A person shining a field, forest or other area frequented by wild animals is presumed to be shining wild animals. This presumption may be rebutted by competent evidence to the contrary. (Ord. 61-4994 §1(part), 1998.)

9.09.030 Shining wild animals after ten p.m. (a) Prohibition. No person may use or possess with intent to use a light for shining wild animals between ten p.m. and seven a.m.

- (b) Exception. This subsection does not apply:
  - (1) To a peace officer acting in his official capacity, an employee of the department acting in his official capacity or a person authorized by the department to conduct a game census.
  - (2) If rules promulgated by the department specifically permit a person to use or possess a light for shining wild animals during these times.

(Ord. 61-4994 §1(part), 1998.)

Chapter 9.12

FIREWORKS AND EXPLOSIVES<sup>3</sup>

Sections:

- 9.12.010 State law adopted.
- 9.12.020 Wholesale sales.
- 9.12.030 Use or storage of dangerous materials.

9.12.010 State law adopted. Section 167.10 of the Wisconsin Statutes, regulating the sale and use of fireworks, exclusive of penalties, is adopted by reference as part of this code. (Prior code §11.01(4)(a).)

9.12.020 Wholesale sales. Nothing in Section 167.10 of the Wisconsin Statutes, shall be construed to prohibit any resident wholesaler, dealer or jobber from selling fireworks at wholesale, provided the same are shipped or delivered directly outside the limits of the city, subject to the following:

- (a) Fire extinguishers, approved by the chief of the fire department, shall be provided where fireworks are stored or handled;
- (b) Smoking shall be prohibited where fireworks are stored or handled;
- (c) It is hereby made the duty of every wholesaler, dealer or jobber keeping or exposing for sale, within the city, fireworks of any description to immediately notify the chief of the fire department of the receipt of such stock of fireworks, or upon removal from one location to another, and the location where the stock of such fireworks is stored. No such fireworks shall be stored in any building used for dwelling purposes or in any building situated within fifty feet of any building used for dwelling purposes or places of public assemblage. (Prior code §11.01(4)(b).)

9.12.030 Use or storage of dangerous materials. No person shall use dangerous materials or devices such as dynamite or unattended gas heaters in construction projects, or store dynamite or similar explosive material, including dynamite caps, in the city without first notifying the police and fire departments. (Prior code §11.01(6).)

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<sup>3</sup> For statutory provisions requiring cities to regulate fireworks, see § 167.10, Wis. Stats.

Chapter 9.16

AIRPLANE FLYING<sup>4</sup>

Sections:

- 9.16.010 Reckless flying.
- 9.16.020 Dropping objects prohibited.
- 9.16.030 Shooting animals prohibited.
- 9.16.040 Loudspeakers prohibited.
- 9.16.050 Display of licenses.

9.16.010 Reckless flying. No person shall operate an aircraft in the air or on the ground or on water while under the influence of intoxicating liquor, narcotics or other drug, nor operate an aircraft in the air or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In determining whether the operation was careless or reckless, the court shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics. The court shall make a written report of all convictions (including bail or appearance money forfeitures) obtained under this chapter to the Federal Aeronautics Administration. (Prior code §11.01(7)(a).)

9.16.020 Dropping objects prohibited. No operator of an aircraft and no passenger therein shall drop any object therefrom except loose water or loose sand ballast; provided, however, that this section shall not prohibit the dusting or spraying of vegetation with insecticides dropped from airplanes, or the sowing of seeds, or the depositing of fish in lakes or streams, or the delivery of packages or mail by dropping from airplanes, or other similar practices, when such is done in accordance with the federal regulations applicable thereto. (Prior code §11.01(7)(b).)

9.16.030 Shooting animals prohibited. No aeronaut or passenger while in flight shall intentionally kill or attempt to kill any birds or animals or shall shoot at any bird or animal from an airplane. (Prior code §11.01(7)(c).)

9.16.040 Loudspeakers prohibited. No aeronaut or passenger while in flight shall use a loudspeaker or other amplifying device to project sounds within the city. (Prior code §11.01(7)(d).)

9.16.050 Display of licenses. The certificate of the license or permit respectively required of a pilot or a student shall be kept in the personal possession of the licensee or permittee when he is operating an aircraft within this state. The certificate of the license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted therein in clear view of passengers. Such certificate of pilot's license, student's permit or aircraft license shall be presented for inspection upon the demand of any passenger, any peace officer of this state, any authorized official, or an official, manager or person in charge of any airport in this state upon which it shall

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<sup>4</sup> For statutory provisions authorizing cities to adopt local regulations in strict conformity with state provisions, see § 114.105, Wis. Stats. For statutory provisions regulating aeronautics generally, see § 114.11, Wis. Stats.

land, or upon the reasonable request of any other person. In any prosecution under any of the provisions of this chapter, a defendant who relies upon a license or permit of any kind shall have the burden of proving that he is properly licensed or is the possessor of a proper license or permit. The fact of nonissuance of such license or permit may be evidenced by a certificate signed by the official having power of issuance or his deputy, under seal of office, stating that he has made diligent search in the records of his office and that from the records it appears that no such license or permit was issued. (Prior code §11.01(7)(e).)

Chapter 9.18

AIRPORT OPERATIONS

Sections:

- 9.18.010 Run-up on Taxiway Alpha prohibited.
- 9.18.020 Unauthorized vehicles prohibited.

9.18.010 Run-up on Taxiway Alpha prohibited. No person shall do run-ups on Taxiway Alpha (the west taxiway) of the Wausau Municipal Airport. All run-ups shall be done on the ramp prior to proceeding on Taxiway Alpha. (Ord. 61-4762 §1(part), 1992.)

9.18.020 Unauthorized vehicles prohibited. Except for areas designated for vehicular parking, areas adjacent to T-hangars, and areas needed to access T-hangars, no person shall operate a vehicle or a snowmobile (as defined in Chapter 340, Wisconsin Statutes) on the Wausau Municipal Airport without the prior authorization of the airport manager or his designee or without the prior authorization of a city employee. (Ord. 61-4762 §1(part), 1992.)

Chapter 9.20

PARK REGULATIONS<sup>5</sup>

Sections:

- 9.20.010 Vehicle regulation.
- 9.20.020 Regulation of persons.
- 9.20.030 Pickup and drop area.

9.20.010 Vehicle regulation. (a) No person shall operate any vehicle at a speed in excess of fifteen miles per hour or contrary to official traffic signs in any park.

(b) No person shall operate or park any motor vehicle, except as provided in this subchapter, upon any hiking trail, beach area, playground, picnic area or any other area other than established roads, parking areas, boat ramps and service areas or contrary to posted notice or within any park seasonally closed to vehicular traffic.

(c) No person shall operate a snowmobile as defined in Section 340.01(58a) of the Wisconsin Statutes in any park, except on snowmobile trails approved by or for events authorized by the park and recreation committee.

(d) No person shall park, stop or leave standing, whether attended or unattended, any vehicle, obstruction or watercraft:

- (1) In any manner as to block, obstruct or limit the use of any road, trail, sidewalk, parking lot, boat landing, waterway or winter sport facility; or
- (2) Outside of any area provided for such purposes when it is practical to use such areas; or
- (3) Contrary to posted notice.

(e) Vehicles may be operated or parked in parks contrary to this subchapter subject to having obtained proper city permits.

(Ord. 61-5483 §1 (part), 2011, File No. 02-0511; Ord. 61-5178 §1, 2002, File No. 02-0511; Ord. 61-5036 §1, 2000; prior code §11.05(1).)

9.20.020 Regulation of persons. Persons using the public parks shall comply with the following:

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<sup>5</sup> For statutory provisions granting a city park board certain board regulatory powers, see § 27.08, Wis. Stats.

(a) No fires shall be permitted in any park other than The 400 Block, except for cooking purposes at designated places. No grilling shall be permitted on The 400 Block, with the exception of those special events for which waivers are granted upon the recommendation of public health & safety committee and approval of the Common Council. Open fires utilizing liquid or gas fuels may be permitted on The 400 Block with the written consent of the City of Wausau;

(b) No person shall enter or be in any park between eleven p.m. and six a.m. Persons in attendance of an activity involving rental of a shelter or participation in a sanctioned special event shall be allowed to remain within the park until midnight or as allowed by the event agreement. Persons traveling on the River Edge Trail or on walkways traversing The 400 Block and persons transporting watercraft to and from designated boat landings are permitted at any hour;

(c) No person shall distribute or post bills or advertisements in any park without written consent of the City of Wausau;

(d) [This subsection is intentionally left black]

(e) No person shall sell or offer for sale any goods, wares or merchandise in any park, except as authorized by the City of Wausau and when holding proper licenses;

(f) No person shall play or practice golf in any park;

(g) No person shall carry into, possess, or throw any cup, glass, flask, bottle or other container made of glass or other shatterable material designed or used for holding a beverage in or on the amphitheater at Marathon Park, the stadium and bleachers at Thom Field and the grandstand and bleachers in Athletic Park;

(h) No owner or person having immediate custody, care or control of any animal, shall permit said animal to enter and/or remain in any designated public park building, bathing beach, the Marathon County Sports Complex, the Marathon Park Amphitheater, or playground safety surface area within any city park, except for a dog specially trained to lead blind or deaf persons or to provide support for mobility-impaired persons. This restriction is in addition to the provisions contained in Chapter 8.08 of the Wausau Municipal Code;

(i) No person shall use any facility, shelter, land or other area, for which a fee or charge has been established by the City of Wausau, without payment of such fee or charge prior to the use.

(j) No person shall enter in any way any building, facility or area that may be under construction or locked or closed to public use, enter or be upon any building, facility or area after the posted closing time or before the posted opening time or contrary to posted notice in any park;

(k) No person shall use docks or piers adjacent to any boat landing in any manner as to obstruct or hinder the launching, landing, loading or unloading of watercraft;

(l) No person shall play or practice hockey, broomball or any other games or sports that may interfere with casual ice skaters, when casual skaters are present on outdoor ice skating rinks



established by the park and recreation committee, except hockey and broomball may be played on designated hockey rinks;

(m) No person shall knowingly obstruct any law enforcement officer while the law enforcement officer is doing any act in an official capacity and with lawful authority. Obstruct includes without limitation knowingly giving false information with intent to mislead the law enforcement officer in the performance of duty including the issuance of any citation;

(n) No person shall take, catch, kill, hunt, trap, pursue, feed or otherwise disturb any wild animals or birds in any park, except that nuisance animals may be trapped upon written consent of the park and recreation committee or its authorized agent and in accordance with applicable state statutes and applicable provisions of the Wisconsin Administrative Code setting forth regulations of the Department of Natural Resources;

(o) Rules and regulations may be made governing the use and enjoyment of all lands, structures and property owned, leased or administered by the city and under the management, supervision and control of the park and recreation committee. Any person who shall violate such rules and regulations or who refuses to subject himself thereto may be excluded from the use of such facility. The decision of the Director of the Parks Department to exclude individuals from the use of park facilities shall be final and the city elects not to be bound by the provisions of Chapter 68, Wisconsin Statutes, with respect to administrative procedure in this regard;

(p) No person shall allow a dog or other animal to intimidate any other person from the use or enjoyment of any park. Evidence that a dog or other animal intimidates persons includes, but is not limited to, such animal not being amenable to control or threatening to attack persons or other animals. Any law enforcement officer or park ranger may order the animal be removed from the park;

(q) No person shall disturb, molest, deface, remove or destroy any trees, shrubs, plants or other natural growth; disturb or remove shoreline rip-rap; carve on any rocks, archaeological or geological features, signs, walls or structures; drive nails in trees or move, deface or vandalize in any manner any structures including buildings, signs, fences, tables or other park property. Edible fruits, nuts, wild mushrooms and wild asparagus may be picked or gathered without a permit.

(r) No person shall allow a dog or any other animal on cross-country ski trails, during that period of the year when such trails are open for cross-country skiing in any city park.

(s) No person shall possess or consume intoxicating liquor or fermented malt beverages in or upon The 400 Block except between the hours of 4:00 p.m. and 11:00 p.m.; during a Class I, II, or III Special Event upon request of the event organizer and as approved under the City's Special Events Policy and Procedures for a period beginning two (2) hours before the time for the Class I, II, or III Special and ending one (1) hour after the event if the event closes prior to 4:00 p.m., or such hours beginning before and ending after the event as may otherwise be approved by the public health and safety committee; or, as otherwise approved by the public health and safety committee and Common Council as provided in section 9.04.025(d). (Ord. 61-5749 §2, 2017; Ord. 61-5745 §1, 2017, File No. 80-0828; Ord. 61-5714 §2, 2016; Ord. 61-5710 §1, 2016, File No. 80-0828; Ord. 61-

5663 §1, 2015, File No. 02-0511; Ord. 61-5640 §1, 2014; Ord. 61-5586 §1, 2013, File No. 02-0511; Ord. 61-5567 §1, 2013, File No. 02-0511; Ord. 61-5483 §2, 2011, File No. 02-0511; Ord. 61-339 §3, 2007, File No. 07-0718; Ord. 61-5267 §1, 2005, File No. 02-0511; Ord. 61-5178 §2, 2002, File No. 02-0511; Ord. 61-5036 §2, 2000; Ord. 61-4986 §2, 1997; Ord. 61-4959 §1, 1996; Ord. 61-4934 §1, 1996; Ord. 61-4909 §1, 1995; Ord. 61-4779 §1, 1992; Ord. 61-4476 §1, 1981; Ord. 61-4343 §1, 1977; prior code §11.05(2).)

9.20.030 Pickup and drop area. There is designated a water ski “pickup and drop area” in the Wisconsin River on the easterly side of D.C. Everest County Park for the water ski club authorized by the Park Commission to conduct water ski practices and performances. (Ord. 61-5404 §1, 2009, File No. 87-0532, Ord. 61-5176 §1, 2002, File No. 87-532; Ord. 61-4616 §1, 1987.)

Chapter 9.21

BOATING REGULATIONS

Sections:

- 9.21.010 Intent.
- 9.21.020 Applicability and enforcement.
- 9.21.030 State boating and safety laws adopted.
- 9.21.040 Definitions.
- 9.21.050 Controlled areas.
- 9.21.060 Penalty.

9.21.010 Intent. This chapter is enacted for the purpose of promoting and protecting the public health, safety and welfare in accordance with the legislative intent set forth in Wisconsin Statutes, Section 30.77 (3)(a). The intent of this chapter is to provide safe and healthful conditions for the enjoyment of aquatic recreation consistent with public rights and interest and the capability of the water resource. (Ord. 61-4643 §1(part), 1988.)

9.21.020 Applicability and enforcement. The provisions of this chapter shall apply to the waters of Lake Wausau, the Big Rib River and the Little Rib River within the jurisdiction of the city. The provisions of this chapter shall be enforceable by the officers of the city and by anyone else designated by the chief of police and by, where it is permissible, deputies of the Marathon County sheriff's department and by wardens employed by the Wisconsin Department of Natural Resources. (Ord. 61-4816 §1(part), 1993; Ord. 61-4643 §1(part), 1988.)

9.21.030 State boating and safety laws adopted. All terms, provisions and conditions of Wisconsin Statutes Section 30.50 to 30.71 inclusive are incorporated in this chapter in their entirety by specific reference as if set forth in full. Any subsequent amendments to such sections are likewise incorporated in this chapter in their entirety by specific reference as if set forth in full insomuch as it is the intent of this chapter to be in conformity with the above cited state statutes. (Ord. 61-4643 §1(part), 1988.)

9.21.040 Definitions. Definitions in this chapter:

"Slow-no-wake" means that speed at which a boat moves as slowly as possible while still maintaining steerage control. (Ord. 61-4643 §1(part), 1988.)

9.21.050 Controlled areas. The following areas are "slow-no-wake" areas:

(a) On the Big Rib River beginning at the upstream (west) edge of the U.S. Highway 51 southbound bridge and proceeding downstream (east) to a line six hundred feet downstream (east) of the U.S. Highway 51 northbound bridge;

(b) On the Big Rib River beginning at a point twenty-four hundred feet upstream of the confluence of the Little Rib River (also described as the common corner of Sections 32 and 33,

T29N, R7E and Section 4 and 5, T28N, R7E) and proceeding upstream (westerly) thirty-one hundred feet;

- (c) Under County Highway N Bridge commonly known as Snake Bridge;
- (d) The Bluegill Bay County Park lagoon;
- (e) Within one hundred feet of the boat launches at D.C. Everest County Park in the city, except there is designated a water ski "pickup and drop area" in the Wisconsin River on the easterly side of D.C. Everest County Park for the Wausauqua Water Ski Shows, Inc., during times of practice and performance and for the general public at all other times;
- (f) Within one hundred feet of the boat launch at Oak Island Park in the city;
- (g) Within one hundred fifty feet of the boat launch and/or dock at Memorial Park in the city;
- (h) Within two hundred feet of the boat launch on Kort Street in the village of Rothschild commonly known as St. Therese's;
- (i) Within one hundred fifty feet of the shoreline beginning at the boat launch pier and proceeding southeast approximately two hundred fifty feet to the lagoon inlet at Bluegill Bay County Park in the town of Rib Mountain;
- (j) From the dam on the Eau Claire River proceeding west to a line seventy-five feet west of the Grand Avenue Bridge. (Ord. 61-4816 §1(part), 1993; Ord. 61-4643 §1(part), 1988.)

9.21.060 Penalty. Insofar as they relate to monetary forfeitures, the penalty provisions of Wisconsin Statutes, Section 30.80, and any subsequent amendments thereto, are incorporated herein in their entirety by specific reference as if set forth in full. It is the intent of this penalty provision to be in conformity with state statutes as those statutes relate to monetary forfeitures. (Ord. 61-4816 §1(part), 1993; Ord. 61-4643 §1(part), 1988.)

Chapter 9.22

SWIMMING AND WADING

Sections:

- 9.22.010 Prohibited swimming and wading in certain areas.
- 9.22.020 Jumping and diving from bridges prohibited.

9.22.010 Prohibited swimming and wading in certain areas. No person shall swim or wade within fifty feet of boat ramps at the following locations except for the express purpose of launching or landing a boat: D.C. Everest County Park, Wausau; Gilbert Park, Wausau; Memorial Park, Wausau; Oak Island Park, Wausau; and Scholfield Park, Wausau. (Ord. 61-5110 §1, 2001, File No. 01-0415; Ord. 61-4644 §1, 1988.)

9.22.020 Jumping and diving from bridges prohibited. No person shall jump, dive, or otherwise launch themselves from any bridge or approach thereto into any body of water within the city limits. (Ord. 61-4780 §1, 1992.)

Chapter 9.23

FIREWOOD

Sections:

- 9.23.010 Definitions.
- 9.23.020 Outside storage of firewood.
- 9.23.030 Amount of firewood.
- 9.23.040 Processing of firewood.
- 9.23.050 Time to comply.
- 9.23.060 Penalty.

9.23.010 Definitions. For the purpose of this chapter the words set out in this section shall have the following meanings:

(a) “Cord of wood” means a unit of wood cut for fuel equal to a stack four by four by eight feet or one hundred twenty-eight cubic feet.

(b) “Outside storage of firewood” means any firewood which is not enclosed by four walls and a roof.

(c) “Processing of firewood” means the cutting or splitting of firewood. (Ord. 61-4747 §1(part), 1991.)

9.23.020 Outside storage of firewood. No person shall permit the outside storage firewood in the front yard and required corner side yard on residentially zoned property, except that firewood may be temporarily stored in the front yard and the required corner side yard for a period not to exceed fifteen days, from the date of its delivery. Firewood should be neatly stacked and may not be stacked closer than one foot to any lot line and not higher than four feet from grade. All brush, debris, and refuse from processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises. (Ord. 61-4747 §1(part), 1991.)

9.23.030 Amount of firewood. No more than ten cords of wood shall be stored at any time upon one residential zoning lot. (Ord. 61-4747 §1(part), 1991.)

9.23.040 Processing of firewood. No person shall process firewood between the hours of seven p.m. and seven a.m., and no person shall process firewood no more than four hours in total during the permitted time. (Ord. 61-4747 §1(part), 1991.)

9.23.050 Time to comply. Those individuals not in compliance with section 9.23.030 at the time of the adoption of the ordinance codified in this chapter shall have one calendar year from the adoption of the ordinance codified in this chapter to get into compliance with this chapter. After this one-year period, those not in compliance will be subject to prosecution. (Ord. 61-4747 §1(part), 1991.)

9.23.060 Penalty. (a) Every person convicted of a violation of any of the provisions of this chapter shall for each offense be punished by a forfeiture not to exceed two hundred dollars together with the cost of prosecution, and in lieu of payment and costs assessed shall be imprisoned in the county jail for a term not to exceed fifteen days.

(b) Every person in violation of this chapter is guilty of a separate offense for each and every day during any portion of which any violation of any of the provisions of this chapter is committed, continued or permitted by such person. (Ord. 61-4747 §1(part), 1991.)

Chapter 9.24

NUISANCES

Sections:

- 9.24.010 Public nuisances prohibited.
- 9.24.020 Public nuisance defined.
- 9.24.030 Health nuisances.
- 9.24.040 Offenses of morals and decency.
- 9.24.050 Safety and peace nuisances.
- 9.24.060 Excavations.
- 9.24.070 Chronic nuisance premises.
- 9.24.080 Continuing ordinance violation.
- 9.24.090 Penalties.

9.24.010 Public nuisances prohibited. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city. (Prior code §12.01.)

9.24.020 Public nuisance defined. A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) Substantially annoy, injure or endanger the comfort, health, repose or safety of the public;
- (b) In any way render the public insecure in life or in the use of property;
- (c) Greatly offend the public morals or decency;
- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use of public property. (Prior code §12.02(1).)

9.24.030 Health nuisances. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definition in section 9.24.020:

- (a) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- (b) Carcasses of animals, birds or fowl not intended for human consumption or food, which are not buried or otherwise disposed of in a sanitary manner within twenty-four hours after death;
- (c) The presence of any: decayed animal matter; vegetable matter; trash; rubbish; rotting lumber; bedding; packing material; scrap metal; and any material whatsoever of any nature or



description, shape or composure, in which vermin such as flies, mosquitoes, insects, rats, mice or other potential disease-transmitting vermin may breed;

- (d) All stagnant water in which mosquitoes, flies or other insects can multiply;
- (e) Privy vaults and garbage cans which are not flytight;
- (f) All noxious weeds and other rank growth of vegetation;
- (g) All animals running at large;
- (h) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, industrial dust or other atmospheric pollutants within the city limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property in the city;
- (i) The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances;
- (j) Any use of property, substances or things within the city emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injury or inconvenience the health of any appreciable number of persons within the city;
- (k) All abandoned wells not securely covered or secured from public use;
- (l) Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the city;
- (m) The operation of a slaughterhouse or junkyard;
- (n) Any animal which discharges feces upon any property, public or private, not owned or under the control of the owner of the animal committing such act, may be picked up and confined in the animal pound as if it were a stray; the owner or custodian of the animal is deemed to have permitted the nuisance to arise, and shall be liable for a penalty as set forth in section 1.01.110. (Ord. 61-5135 §1, 2001, File No. 01-1007; Ord. 61-4211 §1, 1972; Ord. 61-4158 §1, 1970; prior code §12.02 (2).)

9.24.040 Offenses of morals and decency. The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition in section 9.24.020:

- (a) All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;

- (b) All gambling devices and slot machines;
- (c) All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by the ordinances of the city;
- (d) Any place or premises within the city where city ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated;
- (e) Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state or ordinances of the city. (Prior code §12.02(3).)

9.24.050 Safety and peace nuisances. The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions in section 9.24.020:

- (a) All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety or violate any regulation thereof in Titles 12, 15 or 23;
- (b) All buildings erected, repaired or altered within the fire limits of the city in violation of the provisions of the ordinances of the city, relating to materials and manner of construction of buildings and structures within said district;
- (c) All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic-control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any such device, sign or signal;
- (d) All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;
- (e) Subject to subsection (d) of this section, all tree limbs over streets, as defined in section 23.02.415, at elevations of less than fourteen feet; and over public sidewalks or other public lands, except streets, at elevations of less than eight feet;
- (f) All use or display of fireworks except as provided by the laws of the state and ordinances of the city;
- (g) All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

(h) All inoperative, abandoned, wrecked, dilapidated, junk, unsightly, burned-out, partially salvaged, partially demolished or damaged motor vehicles, buses, house trailers, vans, tractors, be they truck or agricultural, farm implements, trailers of any kind, house trailers or any other vehicle or device designed to be upon the highway or used with or by on-the-highway or off-the-highway vehicles;

(i) All wires over streets, alleys or public grounds which are strung less than fifteen feet above the surface thereof;

(j) All loud, discordant and unnecessary noises or vibrations of any kind;

(k) The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing, or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the city;

(l) All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished;

(m) All abandoned refrigerators, iceboxes or other containers having airtight doors or covers, from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside;

(n) Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;

(o) All snow and ice not removed or sprinkled with ashes, sawdust or sand as provided in Chapter 12.52;

(p) Any inscription, work, figure, drawing, symbol, design, or other marking which is scratched, etched, drawn, or painted with spray paint, liquid paint, ink, chalk, dye, or other similar permanent or semi-permanent substance, on public or private property, without the prior express permission or consent of the property owner.

(q) Repeated or continuous violation of the ordinances of the city or laws of the state relating to the storage of flammable liquids. (Ord. 61-5469 §1, 2011, File No. 10-0211, Ord. 61-5422 §1, 2010, File No. 10-0211; Ord. 61-4359 §1, 1978; Ord. 61-4158 §2, 1970; prior code §12.02(4)(part).)

9.24.060 Excavations. (a) Excavations shall be all open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(b) No excavation for building or any other purposes in the city, whether or not completed, shall be left open for more than 60 days without preceding with the erection of a building

thereon. In the event any such excavation remains open for more than 60 days, the building inspector shall order that the erection of a building on the excavation begin forthwith or in the alternative, that the excavation be filled to grade and the site be returned to a condition similar to that which existed prior to the excavation.

(c) Such order shall be served upon the owner of record or his agent, where an agent is in charge of the premises, and upon the holder of an encumbrance of record in the manner provided for service of a summons in the circuit court. If the owner or a holder of an encumbrance of record cannot be found, the order may be served by posting it on the premises and by publishing in the official newspaper for two consecutive publications at least ten days before the time limited in the order commences to run.

(d) If the owner of the land fails to comply with the order within fifteen days after service thereof upon him, the building inspector shall cause the excavation to be filled to grade and the site to be returned to a condition similar to that which existed prior to the excavation, and the cost shall be charged against the real estate and entered in the next succeeding tax roll as a special tax, and shall bear interest at the rate of six percent per year from the date of the report by the building inspector of the cost thereof.

(e) The term "excavation" includes depressions caused by filling two or more sides of a plot of land, and shall include excavations for any purpose, basements, part basements or other excavations left as a residue of a burned or razed building, and such basements or excavations shall, after six months, be subject to the same provisions as excavations made for the purpose of erecting new structures. This section shall not apply to excavations in streets.

(f) All wells, septic tanks, cesspools and similar structures being used within the city shall be protected by adequate sound covering of sufficient strength to prevent injury to any human being or animal. All wells, septic tanks, cesspools and similar structures in the city which are abandoned and which have not been used for six months or more, shall be filled to grade by the owner of the land upon which the same is situated with properly tamped back filling with adequate provision for settling, so as to remove such abandoned well as a hazard to human and animal life and limb.

(g) The building inspector may, at any time, order any well in the city to be adequately covered or filled to grade as herein provided and as the facts warrant. Such order shall be in writing and be served upon the owner of and lien holder on the land, if any, in the same manner as hereinbefore provided in the case of excavations.

(h) Should the owner fail within fifteen days after service of such order to properly cover or fill such well, the building inspector shall cause the same to be done and the cost thereof shall be a lien on the real estate upon which such well is situated and entered upon the next succeeding tax roll as a special tax, and shall bear interest at the rate of six percent per year from the date of the building inspector's report of the cost thereof. (Ord. 61-5158 §1, 2002, File No. 02-0125; prior code §12.02(4(part).)

9.24.070 Chronic nuisance premises. (a) Findings. The Wausau City Council finds that certain premises within the City require and receive a disproportionate amount of police and City Inspection and Zoning Department services, place an undue and inappropriate burden on City taxpayers, and constitute public nuisances. Nuisance activity contributes to the general decay of an affected neighborhood and negatively impacts law-abiding residents in these neighborhoods, as well as the economic values of all properties in the vicinity of this activity. Often this disproportionate devotion of City resources is due to a property owner's own actions or failure of the property owner to accept and exercise sufficient responsibility for and over the actions of occupants, guests, agents or employees that reside in or frequent the premises. This ordinance is enacted to encourage property owners to recognize their responsibility to ensure that activities occurring on their premises conform to the law and do not unduly burden the City's police and Building and Zoning Department and to provide a mechanism for the City to take action against property owners who chronically, routinely, actively, consistently, or often fail to ensure their premises do not require a disproportionate devotion of City resources. This section is not intended to discourage crime victims or a person in legitimate need of police services from requesting them.

b) No property owner shall maintain a chronic nuisance premises. Chronic nuisance premises means a premises that meets any of the following criteria:

- (1) Is a premises which has nuisance activity occurring on the premises three times on separate days during a six-month period and resulting in enforcement action;
- (2) Is a premises that has generated complaints to the City Inspection and Zoning Department that result in a City enforcement action three or more times within a six-month period; or
- (3) Is a premises which has had one enforcement action resulting from the manufacture or delivery of controlled substance or related offenses, as defined in Chapter 961 of the Wisconsin Statutes.

c) Definitions. The following terms shall be defined as follows in this section.

- (1) Chief. The chief of police or his or her designee.
- (2) Chief Inspector. The Chief Inspector or Zoning Administrator of the City Inspection and Zoning Department or his or her designee.
- (3) Chronic Nuisance Landlord. Any owner of a residential unit(s) available for lease or rent within the City that has had 3 premises or 10% of their available premises for lease or rent, whichever is less, designated as a chronic nuisance premises within a twelve (12) month period, shall be deemed a chronic nuisance landlord and shall be subject to the additional provisions of subsection (e) and the abatement provisions of subsection (f).

- (4) Enforcement Action. Arrest, the issuance of a citation, the issuance of a summons and complaint, the issuance of a written warning, or notice of violation from the City Inspection and Zoning Department.
- (5) Nuisance Activity. Any of the following activities, behaviors, or conduct occurring on a premises:
- (A) An act of harassment, as defined in Section 947.013 of the Wisconsin Statutes.
  - (B) Disorderly conduct, as defined in Section 947.01 of the Wisconsin Statutes.
  - (C) Battery, substantial battery, or aggravated battery, as defined in Section 940.19 of the Wisconsin Statutes.
  - (D) Lewd and lascivious behavior, as defined in Section 944.20 of the Wisconsin Statutes.
  - (E) Prostitution, as defined in Section 944.30 of the Wisconsin Statutes.
  - (F) Theft, as defined in Section 943.20 of the Wisconsin Statutes.
  - (G) Receiving stolen property, as defined in Section 943.34 of the Wisconsin Statutes.
  - (H) Arson, as defined in Section 943.02 of the Wisconsin Statutes.
  - (I) Possession, manufacture, or delivery of controlled substance or related offenses, as defined in Chapter 961 of the Wisconsin Statutes.
  - (J) Gambling, as defined in Section 945.02 of the Wisconsin Statutes.
  - (K) Animal violations, as defined in Chapter 8 of the Wausau Municipal Code.
  - (L) Trespassing, as defined in Section 943.13 and Section 943.14 of the Wisconsin Statutes.
  - (M) Weapons violations, as defined in Chapter 9.08 of the Wausau Municipal Code.
  - (N) Noise violations, as defined in Section 9.04.030 of the Wausau Municipal Code.

- (O) Any conspiracy to commit, as defined in Section 939.31 of the Wisconsin Statutes, or attempt to commit, as defined in Section 939.32 of the Wisconsin Statutes, any of the activities, behaviors, or conduct enumerated in subsections (3)(A) through (N) above.
- (P) Violations of the City Housing Code, Chapter 16 of the Wausau Municipal Code.
- (Q) Social host as provided in Section 9.04.028 of the Wausau Municipal Code.
- (R) Possession or consumption of alcohol by underage person as defined in Section 125.07(4)(b) of the Wisconsin Statutes.
- (6) Nuisance Activity. Does not include activities, behaviors or conduct that result in a call for assistance made by the owner or occupant requesting law enforcement services related to any of the following:
  - (A) Domestic abuse as defined in Section 813.12(1)(am) of the Wisconsin Statutes.
  - (B) Sexual assault as described in Sections 940.225, 948.02 and 948.025 of the Wisconsin Statutes.
  - (C) Stalking as defined in Section 940.32 of the Wisconsin Statutes.
- (7) Owner. The owner of the premises and his or her agent.
- (8) Premises. An individual dwelling unit or an individual business premises and associated common areas.

(d) Notice and Designation of Chronic Nuisance Premises. Whenever the Chief or Chief Inspector finds a premises meets the definition of a chronic nuisance premises, such official shall notify the premises owner in writing that the premises are declared a chronic nuisance premises. In reaching this determination, the police shall not count nuisance activities that were reported by the owner of the premises. The notice shall contain the street address or legal description sufficient to identify the premises, a description of the nuisance activities that have occurred at the premises, a statement indicating that the cost of future enforcement may be assessed as a special charge against the premises, and a notice as to the appeal rights of the owner. The notice shall be delivered pursuant to Section 9.28.040 of the Wausau Municipal Code.

(e) Notice and Designation of Chronic Nuisance Landlord. Whenever the Chief or Chief Inspector finds an owner meets the definition of a Chronic Nuisance Landlord, such official shall notify the owner in writing that the owner is declared a Chronic Nuisance Landlord. The notice shall contain the street addresses or legal descriptions sufficient to identify the premises forming the basis for the designation, and the other notice requirements set forth in subsection (d). The notice

shall further provide a statement that the owner shall, within 10 days of receipt of the notice, provide the Chief or Chief Inspector in writing, a course of action that will be taken to abate the nuisance activities. The owner shall also be notified that failure to abate the activities shall result in the owner's designation of chronic nuisance landlord being posted on the City's website; and in the City newsletter.

(f) **Chronic Nuisance Landlord Abatement.** If the owner of residential units available for lease or rent responds to the notice in subsection (3) within 10 days of the receipt of notice or posting and mailing of the notice with a nuisance abatement proposal for all units designated as chronic nuisance premises, the Chief or Chief Inspector or his or her designee may accept, reject, or work with the owner to modify the proposal in his or her discretion and upon approval of the plan, remove the designation of Chronic Nuisance Premises. The designated Chronic Nuisance Landlord nuisance abatement proposal shall include steps that shall be undertaken to mitigate chronic nuisances, which may include, but are not limited to, landlord tenant screening, tenant education, tenant eviction procedures, and other preventative practices to improve the residential unit(s). The Chief or Chief Inspector shall provide written notice to the Chronic Nuisance Landlord of the acceptance or rejection of the nuisance abatement proposal. If the owner causes the number of chronic nuisance premises to be reduced below the Chronic Nuisance Landlord threshold of 3 units or more than 10% of the units available for lease or rent, whichever, is less, the City shall remove the designation of Chronic Nuisance Landlord,.

(g) **Additional Nuisance Activity.** Whenever the Chief or Chief Inspector determines that additional nuisance activity has occurred at a premises for which notice has been issued pursuant to subsections (d) or (e) of this section, that this nuisance activity has occurred not less than fifteen days after notice has been issued nor more than one hundred eighty days after the last enforcement action, and that reasonable efforts have not been made to abate the nuisance activity, the Chief or Chief Inspector may calculate the cost of police or other staff response and enforcement for this and any subsequent nuisance activities and cause such charges and administrative costs to be assessed and collected as a special charge.

(h) **Appeal.** The owner of any premises determined to be a chronic nuisance premises or designated to be a Chronic Nuisance Landlord under this section by the Chief or Chief Inspector pursuant to subsections (d) or (e) may appeal the determination, or the rejection of the owner's abatement plan submitted under subsection (f), to the public health and safety committee within 30 days of the date of notice issued pursuant to subsections (d), (e) or (f) by providing written notice to the city clerk. The public health and safety committee shall set a hearing on such appeal and provide written notice of the hearing to the owner. The public health and safety committee shall hear any and all evidence it deems relevant and shall affirm or reverse the determination of the Chief or Chief Inspector. Chapter 68 of the Wisconsin Statutes shall not apply to such an appeal or hearing. (Ord. 61-5606 §1, 2014, File No. 05-1113; Ord. 61-5584 §1, 2013, File No. 05-1113; Ord. 61-5556 §1 (part), 2013, File No. 05-1113; Ord. 61-5528 §1, 2012, File No. 05-1113; Ord. 61-5273 §1(part), 2005, File No. 05-1113.)

9.24.080 Continuing ordinance violation. Any violation of the Wausau Municipal Code that is not corrected within a reasonable time after notice from the city to a responsible party is a public nuisance. (Ord. 61-5273 §1(part), 2005, File No. 05-1113.)



9.24.090 Penalties. (a) First Offense. Any person who shall violate any provision of this chapter or any regulation, rule or order made hereunder shall forfeit not less than one thousand dollars nor more than two thousand five hundred dollars.

(b) Subsequent Offenses. Any person who shall violate any provision of this chapter or any regulation, rule or order made hereunder within twenty-four months after committing a previous violation of this chapter shall forfeit not less than two thousand five hundred dollars nor more than five thousand dollars. (Ord. 61-5556 §2 (part), 2013, File No. 05-1113; Ord. 61-5273 §1(part), 2005, File No. 05-1113.)

CHAPTER 9.25

GRAFFITI

Sections:

- 9.25.010 Purpose.
- 9.25.020 Definition.
- 9.25.030 Public nuisance.
- 9.25.040 Graffiti prohibited.
- 9.25.050 Liability.
- 9.25.060 Notice to police department.
- 9.25.070 Abatement of graffiti.
- 9.25.080 Failure to abate-public nuisance.
- 9.25.090 Other methods not excluded.
- 9.25.100 Penalty.

9.25.010 Purpose. (a) The common council finds that graffiti is vandalism that destroys property and contributes to social disorder and crime. Graffiti is linked to other illegal activities that include vandalism, theft; the presence of graffiti contributes to the degradation of buildings and the decay of neighborhoods, leading to urban blight. Communities nationwide have found that immediate reporting and removal of graffiti is the most effective method of graffiti prevention.

(b) The common council thus desires to minimize, prevent, and control these adverse effects caused by graffiti and thereby protect the peace, health, safety, and general welfare of the citizens of the City of Wausau; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of its neighborhoods; and deter the spread of urban blight.

9.25.020 Definition. “Graffiti” means any inscription, work, figure, drawing, symbol, design, or other marking which is scratched, etched, drawn, or painted with spray paint, liquid paint, ink, chalk, dye, or other similar permanent or semi-permanent substance, on public or private property, without the prior express permission or consent of the property owner.

9.25.030 Public nuisance. Graffiti is hereby declared to be a public nuisance under Chapter 9.24 of this code affecting peace and safety.

9.25.040 Graffiti prohibited. No person shall affix graffiti upon any property, whether private or public, without the prior express permission or consent of the property owner.

9.25.050 Liability. Any person who shall affix graffiti to any property without the prior express permission or consent of the property owner shall be liable for the costs of removing or covering such graffiti in addition to any forfeitures imposed for violation of this section. The parent(s) or guardian of an unemancipated minor child who affixes graffiti may be held liable for the cost of removing or covering said graffiti in accordance with Section 895.035 of the

Wisconsin Statutes.

9.25.060 Notice to police department. Every owner or occupant of a property defaced by graffiti shall notify the City of Wausau Police Department within 72 hours of discovery of the graffiti and before removing or covering such graffiti.

9.25.070 Abatement of graffiti. Every owner or occupant of a property defaced by graffiti shall abate, meaning remove or cover such graffiti after meeting the requirements of Section 9.25.060 above and the issuance of an order to abate from the City of Wausau Police Department. The order shall be delivered to the owner or occupant personally, posted at the property, or sent by certified mail.

9.25.080 Failure to abate-public nuisance. Failure of the owner or occupant of the property to abate the graffiti may further be governed by the provisions of Chapter 9.28.

9.25.090 Other methods not excluded. The provisions of this chapter are not exclusive and may be used in combination with each other or with any other section of this code or state statute applicable to this subject matter.

9.25.100 Penalty. Any person or corporation violating the provisions of this chapter shall, upon conviction, be fined in a sum or not less than one hundred dollars and not more than five hundred dollars per day of violation, if applicable, with the costs of prosecution.

(Ord. 61-5468, 2011, File No. 11-0304)

Chapter 9.28

ABATEMENT OF NUISANCES

Sections:

- 9.28.010 Enforcement.
- 9.28.020 Summary abatement.
- 9.28.030 Nonsummary abatement.
- 9.28.040 Notice to abate.
- 9.28.050 Remedy from abatement order.
- 9.28.060 Nonabatement prohibited.
- 9.28.070 Abatement by court action.
- 9.28.080 Other methods not excluded.
- 9.28.090 Cost of abatement.

9.28.010 Enforcement. It shall be the responsibility of the chief of police, director of inspections and electrical systems and health officer to enforce those provisions of this title that come within the jurisdiction of their offices, and they shall make periodic inspections and inspections upon complaint to insure that such provisions are not violated. No action shall be taken under this chapter to abate a public nuisance unless the officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and have satisfied himself that a nuisance does in fact exist. (Prior code §12.03(1).)

9.28.020 Summary abatement. (a) Notice. If the inspecting officer determines that a public nuisance exists and that there is a great and immediate danger to the public health, safety, peace, morals or decency, he shall cause notice to be served in the manner provided for service of a summons in circuit court upon the person causing, permitting or maintaining the nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained, and shall cause a copy of the notice to be posted on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within twenty-four hours, and shall state that unless such nuisance is so abated, the city will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

(b) Abatement by city. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance. (Prior code § 12.03(2).)

9.28.030 Nonsummary abatement. (a) If an officer determines that a public nuisance exists but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals, or decency, notice to abate the nuisance may be issued and served by the officer pursuant to Section 9.28.040 of the Wausau Municipal Code. The notice shall order abatement of the nuisance within the time period specified therein and shall state that unless the nuisance is so abated, the city will cause the same to be abated and will charge the cost thereof to the owner, occupant, or person causing maintaining, or permitting the nuisance; and if notice to abate

the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

(b) Abatement by City. If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance. (Ord. 61-5273 §2(part), 2005, File No. 05-1113.)

9.28.040 Notice to abate. The officer may attempt personal service on the owner, agent of the owner, occupant or other person causing, maintaining or permitting the nuisance at such person's last-known address. If this attempt is unsuccessful or impractical, the officer shall post a copy of the notice in a conspicuous place in or about the building where the nuisance exists and send notice by first class mail to the last-known address of the owner or agent of the owner. (Ord. 61-5273 §2(part), 2005, File No. 05-1113.)

9.28.050 Remedy from abatement order. Any person affected by an order under Sections 9.28.020 or 9.28.030 of the Wausau Municipal Code, shall, prior to the abatement date, apply to the circuit court for an order restraining the city from entering on the premises and abating or removing the nuisance, or be forever barred. (Ord. 61-5273 §2(part), 2005, File No. 05-1113.)

9.28.060 Nonabatement prohibited. No person shall fail to comply with a lawful order to abate a public nuisance issued pursuant to this section. Each day of noncompliance with a lawful order to abate issued pursuant to this section is a separate violation. (Ord. 61-5273 §2(part), 2005, File No. 05-1113.)

9.28.070 Abatement by court action. If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he shall file a written report of his findings with the mayor, who, upon direction of the common council, shall cause an action to abate such nuisance to be commenced in the name of the city in the circuit court of Marathon County in accordance with the provisions of Chapter 280 of the Wisconsin Statutes. (Ord. 61-5273 §2(part), 2005, File No. 05-1113; Prior code §12.03(3).)

9.28.080 Other methods not excluded. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the city or its officials in accordance with the laws of the state. (Ord. 61-5273 §2(part), 2005, File No. 05-1113; Prior code §12.03(4).)

9.28.090 Cost of abatement. In addition to any other penalty imposed by this title for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge. (Ord. 61-5273 §2(part), 2005, File No. 05-1113; Prior code §12.04.)

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Chapter 9.32

DISCRIMINATION IN HOUSING ACCOMMODATIONS

Sections:

- 9.32.010 Declaration of policy.
- 9.32.020 Definitions.
- 9.32.030 Unlawful practices.
- 9.32.035 Animals assisting persons with disabilities.
- 9.32.040 Exemptions.
- 9.32.050 Administration and enforcement.
- 9.32.060 Penalty for violation.

9.32.010 Declaration of policy. It is declared to be the policy of the city in the exercise of its police power for the public safety, public health and general welfare to assure equal opportunity to all persons to live in decent, safe and sanitary housing facilities of their choice regardless of race, color, religion, sex, national origin or ancestry, age, disability, marital status, lawful source of income, sexual orientation or familial status and, to that end, to prohibit discrimination in housing by any person. (Ord. 61-5770 §1(part), 2018; Ord. 61-4724 §1(part), 1990; Ord. 61-4564 §1(part), 1985.)

9.32.020 Definitions. For the purposes of this chapter, the following definitions shall apply:

(a) “Disability” means a physical or mental impairment that substantially limits one or more major life activities, a record of having such an impairment or being regarded as having such an impairment. “Disability” does not include the current illegal use of a controlled substance, as defined in Wis. Stat. s. 961.01(4), or a controlled substance analog, as defined in Wis. Stat. s. 961.01(4m), unless the individual is participating in a supervised drug rehabilitation program.

(b) “Discrimination” or “discriminatory housing practice” means to separate, segregate, exclude or treat any person or class of persons unequally because of race, color, religion, sex, national origin or ancestry, age, disability, marital status, lawful source of income, sexual orientation, family status, status as a victim of domestic abuse, sexual assault, or stalking, or any act that is unlawful under this chapter.

(c) “Dwelling unit” means a structure or that part of a structure that is used or intended to be used as a home, residence or sleeping place by one person or by 2 or more persons who are maintaining a common household, to the exclusion of all others.

(d) “Family” includes one natural person.

(e) “Family status” means any of the following conditions that apply to a person seeking to rent or purchase housing or to a member or prospective member of the person’s household regardless of the person’s marital status:

- (1) A person is pregnant.
- (2) A person is in the process of securing sole or joint legal custody, periods of physical placement or visitation rights of a minor child.
- (3) A person's household includes one or more minor or adult relatives.
- (4) A person's household includes one or more adults or minor children in his or her legal custody or physical placement or with whom he or she has visitation rights.
- (5) A person's household includes one or more adults or minor children placed in his or her care under a court order, under a guardianship or with the written permission of a parent or other person having legal custody of the adult or minor child.

(f) "Housing" means any improved property, or any portion thereof, including a mobile home as defined in Wis. Stat. s. 101.91(10), manufactured home, as defined in Wis. Stat. s. 101.91(2), or condominium, that is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence. "Housing" includes any vacant land that is offered for sale or rent for the construction or location thereon of any building, structure or portion thereof that is used or occupied, or is intended, arranged or designed to be used or occupied, as a home or residence.

(g) "Housing for older persons" means any of the following:

- (1) Housing provided under any state or federal program that the secretary determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.
- (2) Housing solely intended for, and solely occupied by, persons 62 years of age or older.
- (3) Housing primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit.

(h) "Member of a protected class" means a group of natural persons, or a natural person, who may be categorized because of sex, race, color, disability, sexual orientation, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual abuse, or stalking, lawful source of income, age, or ancestry.

(i) "Person" includes individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.



(j) “Rent” means to lease, to sublease, to let or to otherwise grant for a consideration the right of a tenant to occupy housing not owned by the tenant.

(k) “Sexual orientation” has the meaning given in Wis. Stat. s. 111.32(13m).

(l) “Status as a victim of domestic abuse, sexual assault, or stalking” means the status of a person who is seeking to rent or purchase housing or of a member or prospective member of the person’s household having been, or being believed by the lessor or seller of housing to be, a victim of domestic abuse, as defined in Wis. Stat. s. 813.12(1)(am), sexual assault under Wis. Stat. ss. 940.225, 948.02, or 948.025, or stalking under s. 940.32. (Ord. 61-5770 §2(part), 2018, File No. 90-1028; Ord. 61-4724 §1(part), 1990; Ord. 61-4564 §1(part), 1985.)

9.32.030 Unlawful practices. It is unlawful for any person, to discriminate:

(a) By refusing to sell, purchase, rent, finance or contract to construct housing or by refusing to negotiate or discuss the terms thereof.

(b) By refusing to permit inspection or exacting different or more stringent price, terms or conditions for the sale, lease, financing or rental of housing.

(c) By refusing to finance or sell an unimproved residential lot or to construct a home or residence upon such lot.

(d) By advertising in a manner that indicates discrimination by a preference or limitation.

(e) For a person in the business of insuring against hazards, by refusing to enter into, or by exacting different terms, conditions or privileges with respect to, a contract of insurance against hazards to a dwelling.

(f) By refusing to renew a lease, causing the eviction of a tenant from rental housing or engaging in the harassment of a tenant;

(g) In providing the privileges, services or facilities that are available in connection with housing.

(h) By falsely representing that housing is unavailable for inspection, sale, or rental.

(i) By denying access to, or membership or participation in, a multiple listing service or other real estate service.

(j) By coercing, intimidating, threatening or interfering with a person in the exercise or enjoyment of, or on account of his or her having exercised or enjoyed, a right granted or protected under this section, or with a person who has aided or encouraged another person in the exercise or enjoyment of a right granted or protected under this section.

(k) In making available any of the following transactions, or in the terms or conditions of such transactions for a person whose business includes engaging in residential real estate-related transaction:

(1) The making or purchasing of loans or the provision of other financial assistance for purchasing, constructing, improving, repairing or maintaining housing or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate.

(2) Selling, brokering or appraising residential real property.

(l) By otherwise making unavailable or denying housing.

(m) By inducing, or attempting to induce a person to sell or rent housing by representing the present or prospective entry into the neighborhood of a person of any particular economic status or a member of a protected class, or by representing to the effect that such present or prospective entry will or may result in any of the following:

(1) The lowering of real estate values in the area concerned.

(2) A deterioration in the character of the area concerned.

(3) An increase in criminal or antisocial behavior in the area concerned.

(5) A decline in the quality of schools or other public facilities service the serving the area. (Ord. 61-5770 §3(part), 2018; Ord. 61-4724 §1(part), 1990; Ord. 61-4564 §1 (part), 1985.)

9.32.035 Animals assisting persons with disabilities. (a) If an individual's vision, hearing or mobility is impaired, it is discrimination for any person to refuse to rent or sell housing to the individual, cause the eviction of the individual from housing, require extra compensation from an individual as a condition of continued residence in housing or engage in the harassment of the individual because he or she keeps an animal that is specially trained to lead or assist the individual with impaired vision, hearing or mobility if all of the following apply:

(1) Upon request, the individual shows to the lessor, seller or representative of the condominium association credentials issued by a school recognized by the Wisconsin Department of Workforce Development as accredited to train animals for individuals with impaired vision, hearing or mobility.

(2) The individual accepts liability for sanitation with respect to, and damage to the premises caused by, the animal.

(b) Subsection (a) does not apply in the case of rental of an owner-occupied housing if the owner or a member of his or her immediate family occupying the dwelling possesses and, upon request, presents to the individual a certificate signed by a physician which states that the owner or family member is allergic to the type of animal the individual possesses. (Ord. 61-5770 §4(part), 2018, File No. 90-1028)

9.32.040 Exemptions. (a) Nothing in this chapter prohibits discrimination based on age or family status with respect to housing for older persons.

(b) Nothing in this chapter shall prohibit a person from exacting different or more stringent terms or conditions for financing housing based on the age of the individual applicant for financing if the terms or conditions are reasonably related to the individual applicant.

(c) Nothing in this chapter shall prohibit the development of housing designed specifically for persons with disabilities and preference in favor of persons with disabilities in relation to such housing.

(d) Nothing in this chapter requires that housing be made available to an individual whose tenancy would constitute a direct threat to the safety of other tenants or persons employed on the property or whose tenancy would result in substantial physical damage to the property of others, if the risk of direct threat or damage cannot be eliminated or sufficiently reduced through reasonable accommodations. A claim that an individual's tenancy poses a direct threat or a substantial risk of harm or damage must be evidenced by behavior by the individual that caused harm or damage, that directly threatened harm or damage, or that caused a reasonable fear of harm or damage to other tenants, persons employed on the property, or the property. No claim that an individual's tenancy would constitute a direct threat to the safety of other persons or would result in substantial damage to property may be based on the tenant's status as a victim of domestic abuse, sexual assault, or stalking.

(e) It is not discrimination based on status as a victim of domestic abuse, sexual assault, or stalking for a landlord to bring an action for eviction of a tenant based on a violation of the rental agreement or of a statute that entitles the landlord to possession of the premises, unless the provisions of Wis. Stat. s. 106.50(5m)(dm)1. or 2. apply.

(f) It is not discrimination based on family status to comply with any reasonable federal, state or local government restrictions relating to the maximum number of occupants permitted to occupy a dwelling unit. (Ord. 61-5770 §5(part), 2018; Ord. 61-4724 §1(part), 1990; Ord. 61-4564 §1(part), 1985.)

9.32.050 Administration and enforcement. (a) Any complaint alleging any discriminatory practice prohibited by this chapter shall be in writing and may be initiated by either the complainant or his agent. All complaints shall contain the name and the address of the complainant, the name and address of the person against whom complaint is made, a statement setting forth the essential facts of the alleged discriminatory practice and the date or dates the alleged discriminatory practice took place.

(b) Complaints shall be filed with the city clerk and may be filed either in person or by mail; filing must be made no later than one hundred twenty (120) days after the complainant knew or should reasonably have known that the alleged discriminatory practice occurred. The clerk shall refer the complaint to the city attorney who shall cause a copy of the complaint to be served upon the person against whom the complaint is made and inform such person of his or her right to file an answer to the complaint within twenty (20) days of receipt of same. The notice of the complaint will further advise the respondent if he or she fails to answer the complaint an initial determination as to whether discrimination has occurred will be based only on the City's investigation and information supplied by the complainant. Complaints and answers shall be sworn to before a notary public. If the City is the discriminatory party, the complaint will be received, but referred to the proper state or federal agency and notice of the same will be provided to the complainant by the City in writing. The city attorney shall conduct an investigation of the complaint.

(c) Upon completion of the investigation, the Fair Housing Review Board, consisting of planning, community and economic development director, human resources director and the city clerk or the designees of any of the foregoing will convene. The review board may dismiss a complaint if the complainant fails to respond to requests related to the investigation within twenty (20) days from the date of mailing of any correspondence concerning the complaint to the last known address of the complainant.

(d) Should a determination be made that there is probable cause to believe a violation of this chapter occurred or is occurring, the review board may endeavor by means of conference, conciliation and persuasion to eliminate the alleged discriminatory practice.

(e) Whenever the review board in its judgment determines that judicial enforcement of this chapter is appropriate it may make a recommendation for enforcement to the city attorney who may commence proceedings in a court of competent jurisdiction to enforce this chapter. Such proceedings may include an application for a temporary injunction, restraining order, or civil forfeiture.

(f) In any proceedings under this chapter, the burden of proof shall be on the complainant.

(g) Nothing in this chapter shall be construed as prohibiting or in any way limiting the right of a complainant to pursue in any appropriate court, any remedy or cause of action available to him/her under state or federal law. (Ord. 61-5770 §6(part), 2018; Ord. 61-4724 §1(part), 1990; Ord. 61-4564 §1(part), 1985.)

**9.32.060 Penalty for violation.** Any person who wilfully violates this chapter shall, for each such violation, forfeit not less than twenty-five dollars nor more than two hundred dollars. Each day such violation continues shall constitute a separate offense. Payment of any such forfeiture shall be stayed during the period in which any appeal may be taken and during the pendency of any appeal.

Chapter 9.36

POISONS

Sections:

9.36.010 Exposing poisonous substances prohibited.

9.36.010 Exposing poisonous substances prohibited. No person shall expose any poisonous substance in any place in the city where it may endanger life or health by being taken or used by any person, or shall expose such poisonous substance with intent that the same be taken by any animal. (Prior code §11.01(part).)